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d/b/a The Cosmopolitan Hotel

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

JACOB NADAV;

Plaintiff,

vs.

NEVADA PROPERTY 1 LLC, d/b/a
COSMOPOLITAN HOTEL; a domestic limited
liability company; DOE EMPLOYEES OF THE
COSMOPOLITAN HOTEL; DOES 1-25,
inclusive; ROE CORPORATION 1-25, inclusive,

Defendants.

CASE NO: 2:23-cv-01116-RFB-EJY

**STIPULATION AND ORDER TO
EXTEND DISCOVERY DEADLINES
(SECOND REQUEST)**

Defendant NEVADA PROPERTY 1 LLC d/b/a THE COSMOPOLITAN HOTEL, by and through their attorneys of record, WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP, and JACOB NADAV, by and their his attorneys of record, HICKS & BRASIER, PLLC, hereby respectfully request and stipulate to a 30 day extension of all remaining deadlines to FRCP 26, and propose a revised discovery scheduling order, as described below:

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I. Summary of Discovery Completed

The Rule 26(f) conference was held on August 10, 2023. Following the Rule 26(f) conference, the proposed Discovery Plan and Scheduling Order was filed on August 23, 2023 and approved by this Court on the same day. Plaintiff served initial disclosures on August 21, 2023, and Defendant served initial disclosures on August 21, 2023. Plaintiff served his first and second supplemental disclosures on September 29, 2023 and November 3, 2023, respectively. Defendant served its first supplemental disclosure on October 5, 2023.

On August 31, 2023, the parties submitted a stipulation and order to protect confidential materials and information. The purpose of the stipulation and order was to help facilitate the exchange of materials between the parties. On September 1, 2023, the Court denied the parties' stipulation and order, without prejudice. On October 3, 2023, the parties resubmitted a revised stipulation and order to protect confidential materials and information. On October 4, 2023, the Court approved the parties' revised stipulation and order.

On October 6, 2023, Defendant propounded requests for production of documents, requests for admission, and interrogatories upon Plaintiff. Plaintiff timely served his written responses to the discovery requests on November, 2023. On November 8, 2023, Plaintiff propounded requests for production of documents, requests for admissions and interrogatories on Defendant.

On November 6, 2023, Plaintiff first contacted Defendant to request that the parties coordinate a site inspection of the location where Plaintiff's counsel. The parties are continuing to work together in order to coordinate the proposed site inspection so that it may take place. Additionally, the proposed site inspection is of particular importance to the parties, and the surveillance footage of the underlying incident did not provide the parties with a clear view of Plaintiff's fall, or any conditions that may have been present when it occurred.

On November 17, 2023 the parties reached their first agreement to continue the discovery deadlines in order to accommodate the site inspection. On December 11, 2023, the parties agreed to extend the due dates for Defendant's responses to written discovery. Plaintiff agreed to extension, with the caveat of pushing back the site inspection to allow enough time for their expert to have all the relevant responses before the inspection.

II. Discovery Remaining

The parties anticipate completing the following discovery:

1. Production of additional documents being obtained from Plaintiff's providers;
2. Site inspection of the subject premises;
3. Deposition of Defendant's FRCP 30(b)(6) designees;
4. Deposition of Plaintiff;
5. Depositions of fact witnesses;
6. Third party discovery, including any additional subpoenas to be issued;
7. Expert report disclosures – initial and rebuttal; and
8. Depositions of Experts.

III. Why the Remaining Discovery Could not be Completed

The parties have been actively working together to engage in discovery and move this matter forward. The parties also identified early on that the issues in dispute for this matter were of an intricate nature, and would require a considerable amount of discovery to prepare for initial expert disclosures.

Despite the work described above, neither party yet has the factual information needed to prepare for expert witness disclosures. Defendant is working diligently to respond to Plaintiff's written discovery. On September 9, 2023, MGM Resorts International suffered a cyberattack, and in response shut down all systems, including outlook. As a result of the shutdown, from September 9, 2023, until October 4, 2023, counsel was unable to send or receive emails from its client, an MGM property; phone lines were also down, and communication by phone was also not feasible. Until October 4, 2023, it was unknown how long communications would be affected, which resulted in countless extensions to discovery being sent out on any MGM matter. This created a **major** backlog in discovery that was coming due prior to the attack, due during the shutdown, or served during the shutdown and still now coming due for some matters, particularly for some dates of loss. However, the imminent holiday season, with its related staffing issues, has exacerbated the unique challenges Defendant is already facing with respect to recovering data relevant to the alleged date of loss in this case, which was impacted by the cyberattack backlog.

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IV. Proposed Schedule for Completing All Remaining Discovery

Pursuant to LR 26-4, the parties propose to extend the current deadlines and jointly submit the following to the Court:

	Current Deadline	Proposed Deadline
Amending Pleadings and Adding Parties	February 12, 2024	March 13, 2024
Initial Expert Disclosures & Interim Status Report	March 13, 2024	April 12, 2024
Rebuttal Expert Disclosures	April 12, 2024	May 13, 2024
Discovery Closes	May 13, 2024	June 11, 2024
Dispositive Motions	June 11, 2024	July 12, 2024
Pre-Trial Order, if no Dispositive Motions	July 11, 2024	July 12, 2024

Dated: December 20th, 2023

**WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP**

/s/ Karen Bashor

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d/b/a The Cosmopolitan Hotel*

Dated: December 20th, 2023

HICKS & BRASIER, PLLC

/s/ Alison M. Brasier

Alison M. Brasier, Esq.
Nevada Bar No. 10522
Tex J. Boonjue, Esq.
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Attorneys for Plaintiff

ORDER

IT IS SO ORDERED:


UNITED STATES MAGISTRATE JUDGE

DATED: December 20, 2023